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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,117	12/15/2003	Lennart J. Brandel	7343-1	3626
7590 JOHNS MANVILLE Legal Department 10100 West Ute Avenue Littleton, CO 80127			EXAMINER CHOL, PETER Y	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 06/19/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/736,117

Applicant(s)

BRANDEL ET AL.

Examiner

PETER Y. CHOI

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4, 6, 7, 11-15, 19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 12-15, 19 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 7 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6, 7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1162306 to Draxö in view of USPN 5,433,997 to Land.

Regarding claims 1, 3, 4, 6, 7, and 11, Draxö teaches a woven, patterned glass fiber textile fabric comprised of a glass fiber yarn with a titer of from about 30 to 75 tex as the warp, and a glass fiber yarn having a titer ranging from 190 to 350 tex as the weft, wherein the warp density ranges from 2.5 to 5 threads/cm and the weft density ranges from 2.0 to 12 threads/cm, wherein each glass fiber yarn used as the warp and/or weft is a sliver or a texturized yarn (see entire document including paragraphs 0001-0022, 0031-0033, 0039).

Regarding claims 1, 3, 4, 6, 7, and 11, Draxö does not appear to teach that the woven, patterned glass fiber textile fabric is formed from a Jacquard weaving process using a Jacquard loom. Since Draxö is silent as to the specific weaving process, it would have been necessary and therefore obvious to look to the prior art for conventional weaving processes. Land provides this conventional teaching, showing that it was known in the wallcovering art to form a fabric for use in wallcovering comprising textured glass woven yarns, wherein the fabric is woven into various styles including Jacquard, and woven using known looms (Land, column 1 line 7 to column 4 line 36, column 5 line 34 to column 6 line 2). It would have been obvious to one of ordinary

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skill in the wallcovering art at the time the invention was made to form the woven glass fiber textile fabric of Draxö, wherein the fabric is formed from the process as taught by Land, motivated by the desire of forming a conventional wallcovering with a style known in the wallcovering art to be predictably suitable for use in wallcovering, based on the desired physical properties of the fabric including style, appearance, hand, and loft. Additionally, it would have been obvious to one of ordinary skill in the wallcovering art at the time the invention was made to form the woven glass fiber textile fabric of Draxö, wherein each glass fiber yarn is texturized, as taught by Land, motivated by the desire of forming a conventional wallcovering with improvements known in the wallcovering art to be predictably suitable for use in wallcovering, such that the yarn is texturized or bulked to provide improved yarn coverage and other desirable properties such as improved hand and loft.

Regarding claims 3 and 4, the prior art teaches that the titer of the warp yarn is about 34 tex or about 70 tex (Draxö, paragraph 0017).

Regarding claims 6 and 7, the prior art teaches that the titer of the weft yarn is about 200 tex or about 330 tex (Draxö, paragraph 0018).

Additionally, the warp and weft densities and the titer of the glass fiber yarn in the warp and the titer of the glass fiber yarn in the weft are obvious because it would have been obvious to one of ordinary skill in the art at the time the invention as made to vary the warp and weft densities and warp and weft titer to within the claimed ranges, as it naturally flows from the teachings of the prior art and it is understood by one of ordinary skill in the art that the densities and titer determine various physical properties of the fabric including the strength, density,

porosity, and appearance of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 11, the prior art teaches that the textile is impregnated with a chemical formulation comprised of a starch binder and a polymeric binder (Draxö, paragraphs 00001-0022, 0031-0033, 0039).

Response to Arguments

3. Applicants' arguments filed April 7, 2009, have been fully considered but they are not persuasive. Applicants argue that Draxö is not silent as to the specific weaving process since Draxö discloses that woven glass fabric products can be produced, for example, on Dornier weaving machines, Rapiers, or Air-Jets. Examiner respectfully disagrees. Draxö teaches that the weave *can* be produced, for example, on the Dornier weaving machines, Rapiers, or Air-Jets. Draxö does not require that the weave necessarily be produced using the aforementioned machines, as they are merely exemplary of possible machines to which the weave may be produced. Additionally, Land teaches that it was known in the wallcovering art to form a fabric for use in wallcovering comprising textured glass woven yarns, wherein the fabric is woven into various styles including Jacquard, and woven using known looms. Therefore, it would have been obvious to one of ordinary skill in the wallcovering art at the time the invention was made to form the woven glass fiber textile fabric of Draxö, wherein the fabric is formed from the process as taught by Land, motivated by the desire of forming a conventional wallcovering with a style known in the wallcovering art to be predictably suitable for use in wallcovering, based on the desired physical properties of the fabric including style, appearance, hand, and loft.

Applicants argue that Draxö teaches that nonwoven mats may be utilized, and that it would not have been necessary and therefore obvious to look to the prior art for conventional weaving processes. Examiner respectfully disagrees. The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain. A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments. MPEP 2123.

Draxö teaches that the preferred embodiment is in woven form, although other fabrics such as nonwoven mats may be utilized (*see* Draxö paragraph 0012). Although one of ordinary skill in the art would not be required to look to the prior art for conventional weaving processes when forming a nonwoven mat, one of ordinary skill would be required to look to the prior art for conventional weaving processes to form a woven mat.

Applicants argue that the results of combining Draxö and Land would not have been predictable, given the different glass yarns disclosed. Examiner respectfully disagrees. Land is not relied on to teach the glass yarn sizes. Land is relied on to teach that it was known in the wallcovering art to form a fabric for use in wallcovering comprising textured glass woven yarns, wherein the fabric is woven into various styles including Jacquard, and woven using known looms. Additionally, Land does not require the individual filaments to have a specific diameter, but Land does teach that in a preferred embodiment, the filaments should have an average diameter of approximately 0.00025 inches. Therefore, absent evidence to the contrary, it would have been obvious to one of ordinary skill in the wallcovering art at the time the invention was made to form the woven glass fiber textile fabric of Draxö, wherein the fabric is formed from the

process as taught by Land, motivated by the desire of forming a conventional wallcovering with a style known in the wallcovering art to be predictably suitable for use in wallcovering, based on the desired physical properties of the fabric including style, appearance, hand, and loft.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER Y. CHOI whose telephone number is (571)272-6730. The examiner can normally be reached on Monday - Friday, 08:00 - 15:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter Y Choi/
Examiner, Art Unit 1794

/Andrew T Piziali/
Primary Examiner, Art Unit 1794